



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Altex Enterprises, Inc.

**File:** B-225941

**Date:** January 12, 1987

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### **DIGEST**

A protest submitted after receipt of proposals contending that provisions implementing the Davis-Bacon Act, rather than the Walsh-Healey Act, should have been included in the solicitation is untimely since it pertains to an apparent solicitation defect, protests of which must be filed prior to the date set for submission of initial proposals.

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### **DECISION**

Altex Enterprises, Inc. (Altex), protests the "bidding practices" under request for proposals (RFP) No. DLA002-87-R-0003, alleging that the RFP was defective because the contracting agency should have issued it as a construction contract subject to the Davis-Bacon Act instead of as a supply contract subject to the Walsh-Healey Act.

We dismiss the protest as untimely.

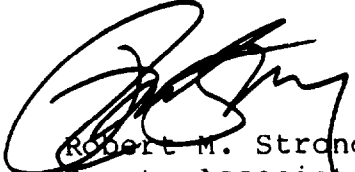
The Defense Logistics Agency issued the RFP for the supply and erection of two tensioned fabric structures on November 17, 1986. The solicitation, which contained only the clauses implementing the Walsh-Healey Act, set the closing date for the receipt of initial proposals as December 9. Award was made to Spandome Corporation on December 19, based on its low, responsive offer. Our Office received Altex's protest concerning this matter on December 23.

Our Bid Protest Regulations require that protests based upon alleged improprieties in an RFP which are apparent prior to the closing date for the receipt of initial proposals be filed by the closing date. 4 C.F.R. § 21.2(a)(1) (1986). Since the alleged impropriety relates to the form of the solicitation and Altex did not file its protest with our

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Office until after the December 9 closing date, it is untimely and will not be considered. The Latta Co., 65 Comp. Gen. 336 (1986), 86-1 C.P.D. ¶ 187.

Accordingly, the protest is dismissed.



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